**IN THE HIGH COURT OF JUDICATURE OF BOMBAY**

**CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION NO.11 OF 2006
IN
APPEAL FROM ORDER ST. NO.28027 OF 2005

Shri Mohamed Amin S/o Ashraf Shaikh. ..Applicant.

V/s.

Shri Mohamed Idris S/o Ali Raza & Ors. ..Respondents.

Mr.N.B.Khan for applicant.

Mr.R.D.Misra for respondents.

**CORAM: A.M.KHANWILKAR,J**

**DATE : MARCH 8, 2006.**

**P.C. :**

1. Heard counsel for the parties. Perused the application.

2. From the assertions made in the application which are not in dispute, the position which emerges is that the impugned order was passed on 16th August, 2004 and the applicant applied for the certified copy thereof immediately on the next day i.e. on 17th August, 2004. On the same day the certified copy was made ready and delivered to the applicant. Soon thereafter, the applicant preferred Writ Petition before this court being W.P.No.8059 of 2004. However, that Writ Petition was allowed to be

withdrawn on 13th July, 2005 with liberty to the applicant to file present appeal from order. It is thereafter, on 25th August, 2005 the present appeal from order has been lodged in this court. Suffice it to observe that the applicant was pursuing wrong remedy in the form of writ petition instead of appeal from order. That was obviously on account of legal advice given by the advocate. For the mistaken legal advice given by the advocate the applicant ought not to suffer. In the circumstances, even though the delay is almost one year and 81 days as computed by the office, in the interest of justice, application is allowed in terms of prayer clause (a).

3. Appeal be registered and placed for admission as per its turn.